

**VIRGINIA BOARD OF NURSING
MINUTES
May 18, 2010**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:05 A.M. on May 18, 2010 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Patricia M. Selig, R.N., F.N.P., Ph.D., President

BOARD MEMBERS PRESENT:

Florence Jones-Clarke, R.N., M.S., Vice President
Evelyn Lindsay, L.P.N., Secretary
Lynne Cooper, Citizen Member
Peregrin C. Francisco, R.N., M.S.A.,
Brenda L. Hale, R.N.
Jeanne E. Holmes, Citizen Member
John M. Horn, L.P.N.
Patricia C. Lane, R.N., B.S.N., M.B.A., H.C.A.
Judith E. Piersall, R.N., B.S.N.
Karen K. Schultz, Ph.D., M.B.A, Citizen Member
William Traynham, L.P.N.

BOARD MEMBER ABSENT:

Joyce A. Hahn, Ph.D.; APRN; NEA-BC

STAFF PRESENT:

Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director
Jodi P. Power, R.N., J.D., Deputy Executive Director
Brenda Krohn, R.N., M.S., Deputy Executive Director
Paula B. Saxby, R.N., Ph.D., Deputy Executive Director
Gloria D. Mitchell, R.N., M.S.N., M.B.A., Deputy Executive Director
Linda Kleiner, R.N., Discipline Case Manager
Ann Tiller, Compliance Manager
Amy Davis, Executive Assistant

STAFF ABSENT: Jessica Ressler, R.N.C., M.S.N., Nursing Education Consultant

OTHERS PRESENT:

Howard M. Casway, Senior Assistant Attorney General
Elaine Yeatts, Policy Analyst, Department of Health Professions
Lauren Goodloe, Virginia Nurses Association representative
Nina Beaman, Program Director for Nursing, Bryant and Stratton College
Miriam Richardson, South University
Nursing students from Fortis College

**ESTABLISHMENT OF
A QUORUM:**

With twelve members of the Board present, a quorum was established.

ANNOUNCEMENTS:

- May 3, 2010 Announcement of DHP Agency Director, Dr. Dianne Reynolds-Cane and Chief Deputy Director, Mr. Arne Owens. Ms. Douglas informed the Board Dr. Reynolds-Cane and Mr. Owens would not be attending today's meeting due to a scheduling conflict.
- Next meeting of the Committee of the Joint Boards of Nursing and Medicine is scheduled for June 16, 2010
- NCSBN Delegate Assembly, Portland Oregon, August 10 – 13, 2010. See Dr. Selig if interested in attending.
- Virginia Nurses Association Education Day/Nursing Roundtable Continued Competence, Saturday September 18, 2010
- Ms. Lane brought to the Board's attention that Dr. Selig was selected by *Lawyers Weekly* as an Influential Women of the Year.
- Ms. Douglas informed the Board no information regarding appointments has been received. The Board acknowledged Ms. Cooper's service.

ORDERING OF AGENDA: The agenda was reviewed and ordered.

CONSENT AGENDA: The Board removed one item from the proposed consent agenda. Ms. Hale moved to accept the consent agenda which includes:

Minutes:

March 15, 2010 – Panel – Ms. Jones-Clarke
March 16, 2010 – Board Meeting – Dr. Selig
March 17, 2010 – Quorum – Dr. Selig
March 17, 2010 – Panel – Ms. Jones-Clarke
March 17, 2010 – Panel – Dr. Selig
March 18, 2010 – Panel – Dr. Selig
April 8, 2010 – Telephone Conference Call – Dr. Selig

Reports:

Finance Report
Health Practitioners Monitoring Program Report of Statistics
Agency Subordinate Tracking Log
Board of Nursing Monthly Tracking Log-Licensure & Disciplinary Statistics

Ms. Lindsay moved to accept the minutes of April 29, 2010 as corrected. The motion was seconded and carried unanimously.

REPORTS:

NCLEX Report:

Dr. Saxby reviewed the NCLEX pass-rate for practical nurses for the period of January 2010 through March 2010. Virginia has a pass-rate of 75.24% compared to the national average of 86.28%. The breakdown of pass-rate by program type is 86.7% for high school programs; 86.50% for community college programs; 68.5% for proprietary programs; and 83.0% for job corp programs. Dr. Saxby reported site visits are being made for programs with a pass-rate below 80% for two years.

Dr. Saxby also reviewed the NCLEX pass-rate for registered nurses for the period of January 2010 through March 2010. Virginia has a pass-rate of 88% compared to the national average of 89.91%. The breakdown of pass-rate by program type is 90.0% for diploma programs; 86.0% for associate degree programs (public 86.3%, private 86.1%); 87.5% baccalaureate degree programs (public 89.5%, private 85.0%)

NNAAP Report:

Dr. Saxby reported on the NNAAP pass-rate for nurse aides for the period of June 2009 through March 2010. The pass-rate for the written portion of the exam is 86.7% and 66% for the skills portion of the exam.

DHP Key Performance Measures:

Ms. Douglas reviewed information for Q3 2010, stating improvement is ongoing, however the quality of investigative reports can be an issue. The clearance rate for nursing cases was 112%, the pending caseload older than 250 business days was 6%, and the percent closed within 250 business days was 96%. The clearance rate for nurse cases was 90%, the pending caseload older than 250 business days was 18% and the percent closed within 250 business days was 100%. Combined, the Board of Nursing clearance rate was 105%, the pending caseload older than 250 business days was 11%, and the percent closed within 250 business days was 97%.

Executive Director Report:

Dr. Selig asked Board members to comment on items of interest in the report which included:

- Dr. Schultz asked if additional information was available regarding the NCSBN Transition to Practice Program which is looking for 3 states to participate in the pilot program. Ms. Douglas indicated additional information is to come from NCSBN regarding involvement and funding.
- Dr. Selig inquired about the compliance caseload. Ms. Tiller stated the amount of compliance cases is manageable, however is increasing, mainly for nursing education programs.

- Ms. Jones-Clarke commented on the issue of new nursing graduates having difficulty in obtaining employment in hospitals. Ms. Douglas reported the Health Care Work Force Data Center is receiving information and that employment varies in different areas of Virginia.
- Mr. Traynham asked if additional information regarding the PSI Medication Aide exam possible security breach was available. Dr. Saxby provided information that authorities are working with PSI to investigate the situation. Since this is not regulated by the Board, Pearson is providing updates when possible.

Board of Health Professions:

Ms. Lane was not able to attend the most recent BHP meeting. Ms. Yeatts reported on information from the meeting which included:

- New occupation to be regulated by the Board of Medicine (polystenographers).
- Emerging health professions identified (surgical assistants, surgical technicians).
- Possible creation of an allied health board, however resources for funding are not adequate at this time.
- Resolution passed by the General Assembly regarding the use of medication aides in nursing homes given to BHP. The Board of Nursing will be involved due to its regulating medication aides.
- Public hearing held last week regarding Grand Aides, the review of public comments is currently in process by BHP.

EDUCATION:

Education Issues:

Dr. Saxby reported on items of interest which included:

- Several practical nursing education programs in the public school system are closing.
- Reported shortages of obstetric and pediatric clinical sites.
- A private nursing education program is reported to be searching for clinical sites in other parts of the state.
- Some clinical sites have decreased the number of students it can accommodate.
- Board of Nursing education staff is making changes in the review of new nursing education program applications to avoid potential problems in advance of the program opening.
- Board of Nursing education staff is verifying with the facility identified as providing clinical sites by nursing education programs.

- Ms. Cooper stated staffing may need to be addressed in order for Board of Nursing staff to make visits to nursing education programs to ensure compliance with regulations.
- The Board of Nursing is receiving electronic transcripts from one nursing education program (Jefferson College). The process is working well and may be expanded to other programs. DHP IT staff are working with Board of Nursing staff.
- Ms. Douglas reported an increase in applicants for licensure by endorsement from individuals that graduated from nursing education programs outside of the U.S. These applications require increased review due to differences in state requirements.

Approval of Minutes:

Ms. Piersall moved that the Board accept the March 16, 2010 minutes of the Education Committee and the May 11, 2010 minutes of the Education Special Conference Committee. The motion was seconded and carried unanimously.

OPEN FORUM:

Robin Robinson, Fortis College RN student asked a question regarding preceptors. Dr. Saxby replied that it varies by facility and NCSBN is developing a transition to practice program with the hope to collect research to help with transition to practice.

RECESS:

The Board recessed 10:16 A.M.

RECONVENTION:

The Board reconvened at 10:30 A.M.

POLICY FORUM:

Sanction Reference Point Guidelines Program:

Neal Kauder and Kim Langston of VisualResearch, Inc. provided an update on the Sanction Reference Point Program. This is the first education session since the original training in 2006. Mr. Kauder and Ms. Langston reported the Board of Nursing is doing a very good job with completing the worksheets accurately and reviewed actual worksheets submitted by the Board that were completed in a way that contained conflicting information. The Board of Nursing makes up the majority of worksheets submitted by DHP.

OTHER MATTERS:

Massage Therapy Frequently Asked Questions:

Ms. Krohn reported that a list of frequently asked questions regarding massage therapy is now available on the Board of Nursing website in an effort to provide information to applicants.

Recommendations from the Discipline Committee:

Mr. Horn reviewed the information from the Discipline Committee meeting held March 16, 2010. The Board considered recommendations from the Discipline Committee for increased delegation of certain case resolution options. Ms. Hale moved that the Board accept recommendation #1 from the Committee "To expand the current delegated authority to professional disciplinary staff of the Board of Nursing to include offering pre-hearing

consent orders (PHCO) in discipline cases for nurses and certified nurse aides consistent with the approved Sanction Reference Worksheets. Guidance Document #90-12 should be amended to reflect this general authority to offer PHCO's consistent with Sanction Reference Worksheets, in addition to the currently enumerated scenarios (many relate to noncompliance and applicant cases, where Sanction Reference is not applicable)." The motion was seconded and carried. Dr. Selig, Ms. Jones-Clarke, Ms. Lindsay, Ms. Francisco, Ms. Hale, Ms. Holmes, Mr. Horn, Ms. Lane, Ms. Piersall, Dr. Schultz and Mr. Traynham were in favor of the motion. Ms. Cooper opposed the motion.

Dr. Schultz moved that the Board refer recommendation #2 back to the Discipline Committee for further study. The motion was seconded and carried unanimously.

Ms. Cooper moved that the Board accept recommendation # 3 from the Committee "When indefinitely suspending a licensee based upon impairment due to chemical dependency (without option of stayed suspension), the Board should routinely consider imposing a "not less than 2 year" minimum timeframe before allowing the licensee to apply for reinstatement. Factors to be considered on whether to impose this minimum timeframe include a demonstrated period of sobriety and evidence of chemical dependency treatment. Indefinite suspensions due to mental health impairments or recurring practice issues should not routinely include a minimum timeframe. If adopted, a Guidance Document may be developed to this effect". The motion was seconded and carried. Dr. Selig, Ms. Jones-Clarke, Ms. Lindsay, Ms. Cooper, Ms. Francisco, Ms. Hale, Ms. Holmes, Mr. Horn, Ms. Lane, Ms. Piersall, and Dr. Schultz were in favor of the motion. Mr. Traynham opposed the motion.

Ms. Cooper moved that the Board accept recommendation #4 from the Committee "The Board should consistently issue a reprimand based upon the underlying conduct that led to the felony conviction(s) which formed the basis of an mandatory suspension by the DHP Director, when the Board of Nursing considers the reinstatement application at a formal hearing pursuant to §54.1-2409 of the *Code of Virginia*. If adopted, a Guidance Document may be developed to this effect". The motion was seconded and carried unanimously.

RECESS: The Board recessed at 12:25 P.M.

RECONVENTION: The Board reconvened at 1:17 P.M.

Board Counsel Update:

Mr. Casway reported the Roanoke Circuit Court upheld the decision of the Board to suspend the professional nursing license of Alfon Maristela. Mr. Casway provided information to the Board for future consideration of the possibility of an appeal due to the right of confrontation with witnesses not being made as a result of witnesses testifying by telephone.

LEGISLATION/REGULATION:

Regulatory Action Status:

Ms. Yeatts reviewed the status of regulatory actions in process. The proposed action to increase fees is at the Governor's office; the NOIRA regarding nursing education program requirements and continued competency requirements are both in the Secretary's office.

Dr. Saxby left the meeting.

CONSIDERATION OF CONSENT ORDERS AND RECOMMENDATIONS REGARDING APPLICANTS:

CLOSED MEETING: Ms. Lindsay moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 1:35 P.M. for the purpose of deliberation to reach a decision regarding consideration of consent orders and recommendations regarding applicants. Additionally, Ms. Lindsay moved that Ms. Douglas, Ms. Power, Ms. Krohn, Ms. Mitchell, Ms. Kleiner, Ms. Tiller, Ms. Davis and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION: The Board reconvened in open session at 2:25 P.M.

Ms. Lindsay moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and carried unanimously.

Rachel M. Loya, L.P.N. 0002-071510

Ms. Hale moved to accept the consent order for indefinite suspension of the practical nursing license Rachel Loya until such time as she pays the \$300 monetary penalty. The motion was seconded and carried unanimously.

Crystal Foltz, R.N. 0001-165575

Ms. Hale moved to accept the consent order for the voluntary surrender for indefinite suspension of the professional nursing license of Crystal Foltz. The motion was seconded and carried unanimously.

Shirley Y. Parker, L.P.N. 0002-068444

Ms. Piersall moved to accept the consent order for the voluntary surrender for indefinite suspension of the practical nursing license of Shirley Parker. The motion was seconded and carried unanimously.

Esmon Thompson, R.N. 0001-062482

Ms. Holmes moved to accept the consent order for the voluntary surrender for indefinite suspension of the professional nursing license of Esmon Thompson. The motion was seconded and carried unanimously.

Ann Gallacher Petty, R.N. 0001-197233

Ms. Hale moved to accept the consent order for the voluntary surrender for indefinite suspension of the professional nursing license of Ann Gallacher Petty. The motion was seconded and carried unanimously.

Sharon Kendall, Tennessee RN license 119951

Ms. Lane moved to accept the consent order for the indefinite suspension of Sharon Kendall's multistate privilege to practice in Virginia, to be stayed contingent upon proof of entry into the Health Practitioners Monitoring Program or a comparable Tennessee program and remaining in compliance. The motion was seconded and carried. Dr. Selig, Ms. Jones-Clarke, Ms. Lindsay, Ms. Francisco, Ms. Hale, Ms. Holmes, Mr. Horn, Ms. Lane, Ms. Piersall, Dr. Schultz and Mr. Traynham were in favor of the motion. Ms. Cooper opposed the motion.

Connie Blevins, R.N. 0001-111808

Ms. Hale moved to accept the consent order for the indefinite suspension of the professional nursing license of Connie Blevins to be stayed contingent upon her continued compliance with the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

Tamara Simpson Graham Severeide, R.N. 0001-129075

Mr. Traynham moved to accept the consent order for the voluntary surrender for indefinite suspension of the professional nursing license of Tamara Simpson Graham Severeide. The motion was seconded and carried unanimously.

Michelle Love, R.N. 0001-209102

Ms. Holmes moved to accept the consent order for the indefinite suspension of the professional nursing license of Michelle Love, to be stayed contingent upon her continued compliance with the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

Shannon M. Jones, R.N. 0001-167178

Ms. Hale moved to accept the consent order to indefinitely suspend the professional nursing license of Shannon Jones. The motion was seconded and carried unanimously.

Kathryn Brandt, L.P.N. 0002-075963

Ms. Lindsay moved to accept the consent order for the voluntary surrender for indefinite suspension of the practical nursing license of Kathryn Brandt. The motion was seconded and carried unanimously.

Allison Nicole Zirkle, C.N.A. 1401-120973

Ms. Lindsay moved to accept the consent order as modified to indefinitely suspend the nurse aide certificate of Allison Zirkle, with suspension stayed contingent upon her entry into the Health Practitioners Monitoring Program and remaining in compliance. The motion was seconded and carried unanimously.

Melinda Fanning, C.N.A. 1401-096620

Ms. Hale moved to accept the consent order for the voluntary surrender for indefinite suspension of the nurse aide certificate of Melinda Fanning. The motion was seconded and carried unanimously.

Janet Moore, C.N.A. 1401-121697

Ms. Lindsay moved to accept the consent order to indefinitely suspend the right to renew the nurse aide certificate of Janet Moore. The motion was seconded and carried unanimously.

Ramona J. Branch, C.N.A. 1401-062274

Ms. Hale moved to accept the consent order for the voluntary surrender for revocation of the nurse aide certificate of Ramona Branch, with a finding of abuse to be entered into the Virginia Nurse Aide Registry. The motion was seconded and carried unanimously.

Cynthia A. Carter, R.M.A. Applicant

Ms. Cooper moved to accept the recommended decision of the informal conference committee to deny the application of Cynthia Carter for registration as a medication aide. The motion was seconded and carried unanimously.

Bobby E. Bailey, Jr., R.M.A. Applicant

Ms. Piersall moved to accept the recommended decision of the informal conference committee to deny the application of Bobby Bailey, Jr. for registration as a medication aide. The motion was seconded and carried unanimously.

Michelle Allen C.N.A. Applicant

Ms. Lindsay moved to accept the recommended decision of the agency subordinate to deny the application of Michelle Allen for certification as nurse aide. The motion was seconded and carried unanimously.

Myra Anthony, R.M.A. Applicant

Ms. Francisco moved to accept the recommended decision of the informal conference committee to deny the application of Myra Anthony for registration as a medication aide. The motion was seconded and carried unanimously.

Nicole N. Glover, R.M.A. Applicant

Ms. Lindsay moved to accept the recommended decision of the informal conference committee to deny the application of Nicole Glover for registration as a medication aide. The motion was seconded and carried unanimously.

Michelle Simmons, L.P.N. Applicant

Ms. Hale moved to reject the recommended decision of the informal conference committee and refer the matter of Michelle Simmons to be rescheduled for an informal conference. The motion was seconded and carried. Dr. Selig, Ms. Jones-Clarke, Ms. Lindsay, Ms. Francisco, Ms. Hale, Ms. Holmes, Mr. Horn, Ms. Lane, Dr. Schultz and Mr. Traynham were in favor of the motion. Ms. Cooper and Ms. Piersall opposed the motion.

Nellie Etienne, L.P.N. Applicant

Mr. Traynham moved to accept the recommended decision of the informal conference committee to deny the application of Nellie Etienne for licensure as a practical nurse. The motion was seconded and carried unanimously.

Michelle D. Mullins, C.N.A; L.P.N. Applicant

Ms. Francisco moved to accept the recommended decision of the informal conference committee to approve the application of Michelle Mullins for licensure as a practical nurse and that upon successful completion of the NCLEX-PN examination, proof that she has entered into a contract with the Health Practitioners Monitoring Program and verification that she has completed the National Council of State Boards of Nursing online course “Ethics in Nursing Practice”, Ms. Mullins be issued a license subject to her continued compliance with the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

Happie C. Harris, C.N.A. Applicant

Ms. Harris appeared, accompanied by attorney, Jim Nachman.

Ms. Cooper disclosed she knows Mr. Nachman, but she would be able to render a fair and impartial decision. There were no objections from Ms. Harris, Mr. Nachman or the Board.

CLOSED MEETING:

Ms. Lindsay moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 2:40 P.M. for the purpose of deliberation to reach a decision regarding consideration of the recommendations regarding Ms. Harris. Additionally, Ms. Lindsay moved that Ms. Douglas, Ms. Power, Ms. Krohn, Ms. Mitchell, Ms. Kleiner, Ms. Tiller, Ms. Davis and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations.

The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 2:47 P.M.

Ms. Lindsay moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

ACTION:

Mr. Traynham moved to accept the recommended decision of the informal conference committee to deny the applications of Happie Harris for certification as nurse aide and registration as a medication aide. The motion was seconded and carried unanimously.

ADJOURNMENT:

As there was no additional business, the meeting was adjourned at 3:00 P.M.

Evelyn Lindsay, L.P.N.
Secretary

Note - Copies of reports referenced can be obtained by contacting the Board of Nursing office.